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CORPLITSEC NEWYORK

Law Offices
Tashlik & Salomon
110 East 59th Street
New York, New York 10022

RECEIVED

JUN 21 4 26 PM '77

I. C. C.
FEE OPERATION BR.

(21) 10022-1039

JUN 21 1977

Date June 17, 1977

Fee \$ 50

ICC Washington, D. C.

LONG ISLAND OFFICE
55 NORTHERN BOULEVARD
GREAT NECK, NEW YORK 11021
(516) 466-5800
(212) 895-7171

RECORDATION NO. 8861 Filed & Recorded

JUN 21 1977 - 4 12 PM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Re: Recordation of Mortgage
The Delaware-Maryland-Virginia Company, Mortgagor
RKO General, Inc., Mortgagee

Honorable Sir:

We are enclosing herewith an original and two counterparts of the June 4, 1977 Agreement (the "Agreement") between RKO General, Inc. ("RKO"), 1440 Broadway, New York, New York 10018, and The Delaware-Maryland-Virginia Company (the "Company"), P.O. Box 71, Cape Charles, Virginia 23310. The two counterparts of the original Agreement are complete copies of the original in all respects, including the dates, signatures and acknowledgments.

We hereby request that the two counterparts of the Agreement be recorded in your office.

Under the terms of the Agreement, the Company conveyed to RKO a security interest in and mortgage to an Alco 2,000 hp Four Motor Locomotive, Serial No. 84784, Locomotive Road Number 201 (formerly LIRR 213). The locomotive also has the following identifying mark located on each side thereof, written in letters not less than one (1) inch in height:

The Delaware-Maryland-Virginia Company, Owner
RKO General, Inc., Mortgagee

Also enclosed herewith is a check in the amount of \$50.00 payable to "Interstate Commerce Commission" to cover the cost of filing.

Tashlik & Salomon

Secretary
Interstate Commerce Commission

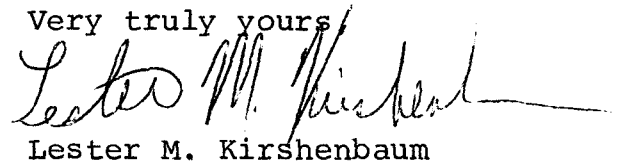
June 17, 1977

-2-

The undersigned is an associate of the firm of Tashlik & Salomon, counsel to RKO, and I have personal knowledge of the matters set forth herein.

Please return the original of the Agreement to the undersigned upon the filing of the counterparts thereof. Thank you for your prompt attention to this matter.

Very truly yours,

A handwritten signature in cursive script, reading "Lester M. Kirshenbaum", with a long horizontal flourish extending to the right.

Lester M. Kirshenbaum

LMK:jk

Encs.

cc: Theodore Wm. Tashlik, Esq.
Mr. Henry Sabatell

Interstate Commerce Commission
Washington, D.C. 20423

6/23/77

OFFICE OF THE SECRETARY

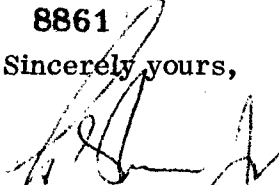
Lester M. Kirshenbaum, Atty.
Tashlik & Salomon
110 East 59th Street
New York, N.Y. 10022

Dear **Sir:**

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **6/21/77** at **4:30pm**
and assigned recordation number(s)

8861

Sincerely yours,


H.G. Homme, Jr.
Acting Secretary

Enclosure(s)

SE-30-T
(6/77)

AGREEMENT OF SALE, CERTIFICATE OF ACCEPTANCE
AND SECURITY AGREEMENT, dated June 4, 1977, between
RKO GENERAL, INC. 1440 Broadway, New York, New York 10018
(the "Seller") and THE DELAWARE, MARYLAND AND VIRGINIA COMPANY
c/o P. O. Box #71, Cape Charles, Virginia 23310 (the "Purchaser")
relating to the purchase of the following used ALCO 2000 hp
Four Motor Locomotive (hereinafter referred to as the "Locomotive")

ALCO SERIAL
NUMBER

84784

LOCOMOTIVE
ROAD NUMBER

201 (Formerly LIRR 213)

The parties agree as follows:

Section 1. Sale of Locomotive Subject to the
conditions set forth herein, the Seller hereby sells and the
Purchaser hereby purchases the Locomotive for \$50,000, such sum
to be due and payable as follows:

- (a) \$5,000 upon the execution of this agreement; and
- (b) \$45,000 to be paid in twelve equal consecutive
installments, of \$3,750.00 commencing one month
from the date hereof.

Prior to execution of this agreement, Mr. Paul Carey, as agent
of the DELEWARE, MARYLAND AND VIRGINIA COMPANY, shall have the
right to inspect said Locomotive and to assure that all aspects
of the Locomotive's condition are as warranted and agreed to
by Purchaser and by Seller.

Section 2. Representation of Seller. The Seller represents that the Locomotives will be delivered free and clear of all liens and encumbrances.

Section 3. Inspection, Condition and Location of Locomotives. The Purchaser has inspected the Locomotives and agrees that they are accepted in an AS IS, WHERE IS condition and acknowledges that the Seller HAS MADE NO WARRANTY OF MERCHANTABILITY OF THE LOCOMOTIVES OR WARRANTY THAT THE LOCOMOTIVES ARE FIT FOR ANY PARTICULAR PURPOSE.

Section 4. Passage of Title. Title to the Locomotives shall pass to the Purchaser upon the execution hereof and Seller shall have no further liability for the Locomotives hereafter. Purchaser acknowledges that the Locomotives are currently located at Morristown, New Jersey, and hereby accepts such Locomotives at their current location.

Section 5. Sales and Use Taxes. The Purchaser hereby agrees to indemnify and hold harmless the Seller for any applicable Federal, State, City or local sales or use taxes that may be or become due as a result of its purchase of the Locomotives.

Section 6. Security Interest. To secure the payment of all amounts due or to become due under the Note and this Agreement, and to secure any other indebtedness or liability of the Purchaser to the Seller, direct or

indirect, absolute or contingent, due or to become due, now existing or hereafter arising (all of which are hereinafter referred to as the "Obligations"), the Purchaser hereby grants and conveys to the Seller a security interest in and mortgages to the Seller the Locomotives (which Locomotives the Purchaser represents will be used primarily for business), all proceeds thereof, if any, and all increases, substitutions, replacements, additions and accessions thereto (all of the foregoing of which are hereinafter referred to as the "Collateral").

Section 7. Representations, Warranties and Covenants of the Purchaser. The Purchaser represents, warrants, covenants and agrees as follows:

- (a) To pay and perform all of the Obligations secured by this Agreement and the Note according to their terms.
- (b) To defend the title to the Collateral against all persons and against all claims and demands whatsoever, which Collateral, except for the security interest granted hereby, is lawfully owned by the Purchaser and is now free and clear of any and all liens, security interest, claims, charges, encumbrances, taxes and assessments.
- (c) On demand of the Seller to do the following; furnish further assurance of title, execute any written agreement or do any other acts necessary to effectuate the purposes and provisions of this Agreement, execute

any instrument or statement required by law or otherwise in order to perfect, continue or terminate the security interest of the Seller in the Collateral and pay all costs of filing in connection therewith.

- (d) To retain possession of the Collateral during the existence of this Agreement and not to sell, exchange, assign, loan, deliver, lease, mortgage or otherwise dispose of same without the prior written consent of the Seller.
 - (e) To keep the Collateral at its office in Cape Charles, Virginia and not to remove same, except in the usual course of business for temporary periods, without the prior written consent of the Seller.
 - (f) To keep the Collateral free and clear of all liens, charges, encumbrances, taxes and assessments and to pay, when due, all taxes, assessments and license fees relating to the Collateral.
 - (g) To keep the Collateral, at Purchaser's own cost and expense, in good order and repair and in good operating condition acceptable for movement through interchange and not to misuse, abuse, waste or allow to deteriorate except for normal wear and tear and to make same available for inspection by the Seller at all reasonable times.
- In addition, the Purchaser shall comply with all

Federal, State and Municipal governmental laws, regulations, requirements and rules with respect to the use, maintenance and operation of the Locomotives.

- (h) To keep the Collateral insured against loss by fire (including extended coverage), theft and other hazards as the Seller may require and in an amount not less than the purchase price of the Locomotives. Policies shall be in such form and amounts and with such companies as the Seller may from time to time designate. Policies shall be obtained from responsible insurers authorized to do business in Pennsylvania. Certificates of insurance or policies, payable to the respective parties as their interest may appear, shall be deposited with the Seller who is authorized, but under no duty, to obtain such insurance upon failure of the Purchaser to do so. Purchaser shall give immediate written notice to the Seller and to insurers of loss or damage to the Collateral and shall promptly file proofs of loss with insurers. Purchaser hereby appoints the Seller the attorney for the Purchaser in obtaining, adjusting and cancelling any such insurance and endorsing settlement drafts and hereby assigns to the Seller all sums which may

become payable under such insurance, including return premiums and dividends, as additional security for the indebtedness.

- (i) To immediately notify the Seller in writing of any change in or discontinuance of Purchaser's place or places of business.

Section 8. Default. If, during the continuance of the Purchaser's obligation to the Seller, one or more of the following events (herein sometimes called Events of Default) shall occur:

- a. Default shall be made in the payment of any obligation to the Seller and such default shall continue for ten days;

- b. The Purchaser shall make or permit any unauthorized assignment or transfer of possession of any Locomotive and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Locomotives within ten days after written notice from the Seller demanding such cancellation and recovery of possession;

- c. Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Purchaser contained herein and such default shall continue for ten days after written notice from the Seller specifying the default and demanding the same to be remedied;

d. A decree or order by a court having jurisdiction in the premises shall have been entered,

(1) Adjudging the Purchaser a bankrupt or insolvent,

(2) Approving as properly filed a petition seeking reorganization of the Purchaser under the Federal Bankruptcy Act or any other State or Federal law relating to bankruptcy or insolvency, except a petition filed under Section 20b of the Interstate Commerce Act or any similar law enacted hereafter which petition does not seek any adjustment or impairment of any Obligation contained herein, or

(3) For the appointment of a receiver or liquidator or trustee in bankruptcy, reorganization or insolvency of the Purchaser or of its property or any substantial portion of its property, and within thirty days thereafter (or in case, prior to the end of such thirty day period, a temporary or permanent receiver or trustee shall have been appointed in such proceedings, then within thirty days after the first such appointment) the Obligations of the Purchaser hereunder shall neither have been assumed pursuant to order or decree of such court by the receiver or trustee in such proceedings nor otherwise have been given, pursuant to an order or decree of such court, a status comparable to that of obligations incurred by a receiver or trustee in bankruptcy, reorganization or insolvency proceedings; or

(e) A reduction in the value of the Collateral or any act of the Purchaser which imperils the prospect of full performance or satisfaction of the Purchaser's obligations herein; then, in any such case, the Seller, at its option, may

(i) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Purchaser of the applicable provisions of this Agreement or to recover damages for the breach thereof; or

(ii) By notice in writing to the Purchaser terminate this Agreement, whereupon all right of the Purchaser to the ownership, use or possession of the Locomotives shall absolutely cease and terminate as though this Agreement had never been made, but the Purchaser shall remain liable as hereinafter provided; and thereupon, the Seller may be its agents enter upon the premises of the Purchaser or other premises where any of the Locomotives may be and take possession of all or any of such Locomotives and thenceforth hold, possess and enjoy the same free from any right of the Purchaser, or its successors or assigns, to use the Locomotives for any purposes whatever; but the Seller shall nevertheless have a right to recover from the Purchaser any and all amounts which under the terms of this Agreement may be then due or which may thereafter become due, together with all costs, damages and expenses, including reasonable attorneys' fees, in addition thereto which the Seller shall have

sustained by reason of the breach of any covenant or covenants of this Agreement.

The remedies in this Agreement provided in favor of the Seller shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Purchaser hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Purchaser hereby waives any and all existing or future claims to any offset against Obligations due hereunder and agrees to make the rental payments regardless of any offset or claim which may be asserted by the Purchaser or on its behalf in connection with the sale of the Locomotives.

The failure of the Seller to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 9. Additional Remedies If a Default shall occur, in addition to the other remedies provided for herein and at the option of the Seller, the Obligations secured by this Agreement shall immediately become due and payable in full without notice or demand and the Seller shall have all the rights, remedies and privileges with respect to repossession, retention and sale of the Collateral and disposition of the proceeds as are accorded to a Secured

Party by the applicable sections of the Uniform Commercial Code respecting "Default", in effect as of the date hereof. Upon any default, the Seller's reasonable attorneys' fees and the legal and other expenses for pursuing, searching for, receiving, taking, keeping, storing, advertising, and selling the Collateral shall be chargeable to the Purchaser. The Purchaser shall remain liable for any deficiency resulting from a sale of the Collateral and shall pay any such deficiency forthwith on demand. If the Purchaser shall default in the performance of any of the provisions of this Agreement on the Purchaser's part to be performed, the Seller may perform same for the Purchaser's account and any monies expended in so doing shall be chargeable with interest to the Purchaser and added to the indebtedness secured hereby. In conjunction with, addition to or substitution for those rights, Seller, at its discretion, may: (1) enter upon Purchaser's premises peaceably by Seller's own means or with legal process and take possession of the Collateral, or render it unusable, or dispose of the Collateral on the Purchaser's premises and the Purchaser agrees not to resist or interfere; (2) require Purchaser to assemble the Collateral and make it available to the Seller at a place to be designated by the Seller, reasonably convenient to both parties; (3) Seller will give Purchaser reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be

made. The requirements of reasonable notice will be met if such notice is mailed, postage prepaid, to the address of the Purchaser set forth herein, at least three days before the time of sale or disposition.

Section 10. Identification Marks. If not already in place, Purchaser will cause the following words to be plainly, distinctly, permanently and conspicuously marked on each side of each Locomotive in letters not less than one inch in height:

THE DELAWARE-MARYLAND-VIRGINIA

COMPANY OWNER

RKO GENERAL, INC., MORTGAGEE

Any other plates or stencils relative to ownership or mortgages shall be removed by Purchaser. If during the continuance of the Obligations of the Purchaser the foregoing marking is defaced or destroyed, the Purchaser shall immediately cause such markings to be restored. The Purchaser shall not allow the name of any person, association or corporation to be placed on any of the Locomotives as a designation which might be interpreted as indicating a claim of ownership thereof by any person, association or corporation other than the Seller; but the Purchaser may letter the Locomotives with the names or initials or other insignia customarily used by the Purchaser on its Locomotives for convenience of identification of the right of the Purchaser to use and operate the

Locomotives. In the event of any change in the mortgagee, the Purchaser agrees to promptly revise the marking on such Locomotive to correctly reflect such new mortgagee.

Section 11. Numbering. At all times during the continuance of the Purchaser's Obligations, the Purchaser will cause each Locomotive to bear the Purchaser's road number assigned to it; provided, however, that the Purchaser may change the road number borne by any Locomotive if prior thereto the Purchaser shall have filed with the Seller a statement of the new road number to be substituted therefor and the Purchaser shall have filed, deposited, registered and recorded such statement wherever this Agreement shall have been filed, deposited, registered or recorded or elsewhere as required by law.

Section 12. Reports and Inspection. The Purchaser will furnish to the Seller such reports as may be reasonably requested by the Seller. The Seller shall have the right, by its authorized representatives, to inspect the Locomotives to confirm to the Seller the existence and proper maintenance thereof during the continuance of the Purchaser's Obligations.

Section 13. Assignment. This Agreement and the Note shall be assignable in whole or in part by the Seller without the consent of the Purchaser, but the Purchaser shall be under no obligation to any assignee except upon written notice of such assignment from the Seller. Upon

such notice, the assignee shall be entitled to performance of all of the Purchaser's Obligations and agreements hereunder and the assignee shall be entitled to all of the rights and remedies of the Seller hereunder. Purchaser will assert no claims or defenses, if any, it may have against the Seller against the assignee.

Section 14. Recording and Expenses. The Seller may, at the expense of the Purchaser, cause this Agreement and any Financing Statement under the Uniform Commercial Code or other appropriate statement or document to be filed and recorded with all appropriate Federal, State and Municipal governmental authorities. The Purchaser will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by the Seller, for the purpose of proper protection, to the satisfaction of counsel for the Seller, of its title to the Locomotives, or for the purpose of carrying out the intention of this Agreement. The Purchaser will pay all costs, charges and expenses incident to the filing, refiling, registering, re-registering, recording and re-recording of any such further instrument or incident to the taking of any such other action.

Section 15. Notices. Any notice required or permitted to be given by either party hereto to the other shall

be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

If to the Seller:

RKO General, Inc.
1440 Broadway
New York, New York 10018

Attention: Mr. Henry P. Sabatell

If to the Purchaser:

The Delaware-Maryland and Virginia Co.
P. O. Box 71
Cape Charles, Virginia 23310

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

Section 16. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

Section 17. No Waiver; Cumulative Remedies.
No failure on the part of the Seller to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by the Seller preclude any other further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder

are cumulative and are not exclusive of any other remedies provided by law.

Section 18. Termination. This Agreement shall terminate when the Purchaser has satisfied all of its Obligations hereunder.

Section 19. Miscellaneous. This Agreement may not be amended, modified, waived, discharged or terminated except by an instrument in writing executed by the Seller. In case any provision of this Agreement shall be held to be invalid, illegal or unenforceable, such holding shall not affect any other provision hereof.

Section 20. Law Governing. This Agreement shall be construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be executed in their respective corporate names by their respective duly authorized representatives as of the date first above written.

RKO GENERAL, INC.

By Paul H. Stroh

The Delaware-Maryland-Virginia Co.

By Paul Caver

June 4, 1977